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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,631	12/28/2000	Takao Shimamura	Q62040	5992

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EXAMINER

HINDI, NABIL Z

ART UNIT

PAPER NUMBER

2655

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/749,631</b>	Applicant(s) <b>Shimamura et al</b>
Examiner <b>Nabil Hindi</b>	Art Unit <b>2655</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-33 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-33 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6)  Other: \_\_\_\_\_

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizumoto et al (5351226).

The reference discloses an optical disk recording and reproducing apparatus comprising: an amplifier for amplifying a read signal 4, a controller 3 for positioning the light beam on a non-program area of the disk (TOC or lead in area) S1, focusing lock in determining step S2, determine if the RF signal is high or low S5, if the RF signal is not high moving the light spot to a program area of the disk fig 7 in order to determine a valid signal meeting the claimed invention.

With respect to the limitations of claims 2, 14 and 25 the reference discloses the movement of the beam spot to the outer area of the disk in the second movement step.

With respect to the limitations of claims 3, 5, 15, 17, 26, and 28, see fig 2a-4c.

With respect to the limitations of claims 4, 16, and 27. The read signal would have a level indicative of the partially recorded disk on the medium since the TOC is stored in a memory and not in lead in areas as acknowledged by applicant's own prior art.

With respect to the limitations of claims 6, 18, and 29 see step S6.

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With respect to the limitations of claims 7, 19, and 30 see column 7 lines 10-20.

With respect to the limitations of claims 8, 20 and 31 see fig 7 element S22.

With respect to the limitations of claims 9-11, 21, 22, and 32 The limitation "indirectly" is clearly defined in the claims and merely read on any signal processing. See elements 4-7 and the controller 10.

Any inquiry concerning this communication should be directed to NABIL.HINDI at telephone number 308.1555



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PRIMARY EXAMINER  
DRAFTED  
2003